IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

DATE OF DECISION: 24.9.2007

Diwan Singh and others **...Petitioners**

VERSUS

Arjun Singh & others **...Respondents**

CORAM

HON'BLE MR.JUSTICE PERMOD KOHLI

PRESENT: Mr.Anil Rathee, Advocate for the petitioners

Permod Kohli,J. (Oral)

This Civil Revision is directed against the order dated 13.9.2007 passed by the Additional District Judge, Karnal dismissing the appeal of the present petitioners against the order dated 17.8.2007 passed by the Additional Civil Judge (Sr.Division), Assandh, granting ad interim injunction in favour of the plaintiffs-respondents.

The plaintiffs/respondents instituted a suit for permanent prohibitory injunction seeking restraint order against the present petitioners who were defendants in the suit. They claimed actual physical possession over the suit property. It is admitted case of the parties that the present petitioners/defendants had purchased land measuring 8 kanals from the father of the plaintiffs/respondents. The plaintiffs/respondents claimed that

inspite of the sale made in favour of the defendants by their father, they continued to remain in actual physical possession of the land. They produced on record the copies of the Jamabandi for the year 2000-2001 and also the khasra girdawari thereafter. The trial court, on being prima facie satisfied that the plaintiffs are in actual physical possession, granted ad interim injunction vide order dated 17.8.2007. Aggrieved of the injunction order, the petitioners/defendants preferred an appeal before the Additional District Judge, Karnal who also dismissed the appeal vide the impugned order holding that the plaintiffs are prima facie found in possession of the suit property, in view of the entries in the Jamabandi for the year 2000-2001 and also khasra girdawari upto 2006-2007. Though both the courts below found that the petitioners/defendants are the owners of the property, but the courts below also observed that they can only take the possession in accordance with due course of law and cannot be permitted to forcibly take possession from the plaintiffs. Learned counsel appearing for the petitioners/plaintiffs has laid emphasis on two questions- (1) that when the sale deeds were made by the father, the possession of the property was delivered to the defendants and (2) that in the year 1985, the defendants themselves had instituted a suit for pre-emption asking for the possession of the suit property from the defendants. It is stated that the said suit was dismissed. All these are triable issues to be considered by the trial court in the trial. For the purposes of grant of ad interim injunction, the court has to be satisfied

regarding the actual physical possession as on the date of filing of the suit. Revenue records produced by the plaintiffs depict actual physical possession of the plaintiffs both in Jamabandi for the year 2000-2001 and the khasra girdawaris, all along. This evidence was considered by the courts below to be sufficient enough to indicate prima facie possession of the plaintiffs and accordingly the courts below granted injunction. It is settled law that for the purposes of grant of injunction, the possession is to be seen on the date of filing of the suit and there is enough material on record to prima facie indicate that the respondents are in possession of the suit property. I do not find any infirmity in the impugned order.

Learned counsel for the petitioners submits that the order of injunction may be converted into order of status quo. I decline this prayer for the simple reason that prima facie findings of both the courts below are sufficient to grant ad interim injunction i.e. a restraint order. Under these circumstances converting a restraint order into status quo may provide an opportunity to the parties to again fight over the possession which may create an ugly situation.

In view of the above, I find no merit in this revision petition which is accordingly dismissed.

24.9.2007 **(PERMOD KOHLI)**
MFK **JUDGE**

NOTE:Whether to be referred to the Reporter or not:NO